

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 1971 (Application 5541)

Soda Flat Water Association

ORDER ISSUING AMENDED LICENSE

SOURCE: Unnamed Spring tributary to South Fork of Middle Fork of Tule River

COUNTY: Tulare

WHEREAS:

1. License 1971 was issued pursuant to permitted Application 5541 on August 3, 1939, and was recorded with the County Recorder of Tulare County on August 29, 1939. Recording of this license, and subsequent orders issued thereto, is prescribed by Water Code section 1650.
2. The Division of Water Rights (Division) record of ownership for License 1971 shows the current holder of the license as Soda Flat Water Association.
3. During an inspection of the water right project authorized under License 1971 on September 11, 2002, it was determined that the descriptions of the Point of Diversion and Place of Use require correction. A maximum annual amount of water diverted should also be added to the license.
4. The State Water Resources Control Board (SWRCB) has determined that the license shall be amended to include the following specific corrections or changes:
 - a. A correction in the description of the Point of Diversion,
 - b. A correction in the description of the Place of Use, and
 - c. Addition of maximum annual amount of 0.2 acre-foot per year.
5. The SWRCB standard license terms pertaining to right of access to the Point of Diversion, continuing authority, water quality objectives, protection of endangered species, and the need for a State Department of Fish and Game stream alteration agreement shall be updated or added to the amended license.
6. The SWRCB has determined the amended license does not constitute an initiation of a new right, and does not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

The attached Amended License 1971 is issued, superseding former License 1971 issued on August 3, 1939. The priority of Amended License 1971 is June 20, 1927.

STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief
Division of Water Rights*

Dated: **APR 17 2003**



STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 5541
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PERMIT 2925

LICENSE 1971

THIS IS TO CERTIFY, That

Soda Flat Water Association
c/o Doug Bello
2855 Effie Street
Los Angeles, CA 90026

has the right to the use of the waters of an **Unnamed Spring** in **Tulare County**

tributary to **South Fork of Middle Fork Tule River, thence Middle Fork Tule River, thence Tule River**

for the purpose of **Domestic use.**

Amended License 1971 supersedes the license originally issued on **August 3, 1939**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (SWRCB), or its predecessor, and the terms of **Permit 2925**. The priority of this right dates from **June 20, 1927**. Proof of maximum beneficial use of water under this license was made as of **July 14, 1938 and September 11, 2002** (the date of inspections).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **two thousand (2,000) gallons per day to be diverted from June 1 to September 15 of each year. The maximum amount diverted under this license shall not exceed 0.2 acre-foot per year.**

The equivalent of the authorized continuous flow allowance for any 7-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed.

(0000027)

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

By California Coordinate System of 1927, Zone 4, North 292,140 feet and East 2,116,303 feet, being within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 34, T20S, R31E, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Lots 1 to 6 both inclusive, 8 to 12 both inclusive and 15 of Soda Flat Special Use Tract of Sequoia National Forest and being within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 34, T20S, R31E, MDB&M, as shown on map dated September 11, 2002, on file with the SWRCB.

This permit shall not be construed as conferring upon the permittee the right of access to the point of diversion.

(0000022)

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

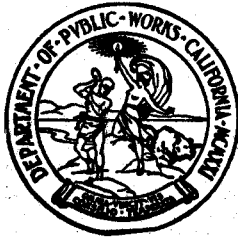
Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief
Division of Water Rights*

Dated: **APR 17 2003**



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE 1971

PERMIT 2925

APPLICATION 5541

THIS IS TO CERTIFY, That **Soda Flat Water Association, Porterville, California.**

has made proof to the satisfaction of the Division of Water Resources of California of a right to the use of the waters of **an unnamed spring in Tulare County**

tributary of **South Fork of Middle Fork of Tule River**

for the purpose of **domestic use**

under Permit **2925** of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from **June 20, 1927;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **two thousand (2000) gallons per day** from about June 1st to about September 15th of each season.

The point of diversion of such water is located **North eighty degrees East (N. 80° E.) thirteen (1300) feet from the southwest corner of Section 34, T 20 S, R 31 E, M.D.B.M. and being within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 34.**

A description of the lands or the place where such water is put to beneficial use is as follows:

Lots 2 to 9 both inclusive, 11 to 13 both inclusive and 15 of Soda Flat Special Use Tract of Sequoia National Forest and being within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 34, T 20 S, R 31 E. M.D.B.M.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Division of Water Resources.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes of 1913, as amended, which is as follows:

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that at any time after the expiration of twenty years after the granting of a license, the state or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and *providing, further*, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs thereof, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and *providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and *provided, further*, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess water, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public
Works of the State of California, this third
day of August, 1930.

EDWARD HYATT
State Engineer

By Harold Conkling
Deputy



1971

LICENSE

STATE OF CALIFORNIA

DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE
TO APPROPRIATE WATER

ISSUED TO Soda Flat Water Association

DATED August 3, 1930

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